Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

NO. _____

SUPRME COURT OF THE UNITED STATES

IN THE PETITION OF SALVATORE MORETTI

PETITION FOR WRIT OF PROHIBITION

SALVATORE MORETTI,
Petitioner

- v. -

LOUIS J. DINICE, J. M.C.
Respondent

Salvatore Moretti
390 Park Street
Hackensack, New Jersey 07601

78 pp

QUESTIONS PRESENTED FOR REVIEW

1. Has Louis J. Dinice, Municipal Judge of Hackensack, New Jersey, shown utter disregard for the laws of the State and of the United States by citing petitioner for building code violations and failing to summon to court the perpetrators of the leasehold violations which caused the code violations - residents/guests at the apartment house owned by petitioner, noted in the writs of mandamus pending in the U. S. Supreme Court, In Re Salvatore Moretti v. Eugene H. Austin, Docket No. 95-2045, and In Re Salvatore Moretti v. Peter D. Pizzuto, Docket No. 96-249?

2. Has Hackensack Municipal Judge Dinice failed to recuse himself in a matter in which he has a direct conflict of interest wherein he admits through his attorney that the only thing he is concerned about is "where your assets are so I can send a Federal Marshall to levy against you - to get $1,600.00?" (App. 41)

3. Why has the Hackensack Municipal Court failed to issue violations against the tenants causing the damage as required under the N. J. Hotel and Multiple Dwelling Code Sect. 5:10-5.1 & 5.5 - "every occupant shall be liable for willfully or maliciously causing damage to any part of the premises...?"

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LEGAL ARGUMENT

DESPITE THE PENDENCY OF TWO PETITIONS BEFORE THE UNITED STATES SUPREME COURT, INVOLVING THE APARTMENT HOUSE PROPERTY UNDER PETITIONER'S CONTROL, DOCKET NO'S. 95-2045 AND 96-249, THE HACKENSACK MUNICIPAL COURT HAS DOCKETED TWO COMPLAINTS AGAINST PETITIONER, KNOWING THAT THE COMPLAINTS WERE UNFOUNDED AND MISDIRECTED, AND IMPOSSIBLE TO PERFORM WITHIN THE TIME REQUIRED.

Petitioner delivered a Notice to the municipal court of Hackensack, New Jersey on August 2, 1996 (App. 7), appended to which were sixty-three pages of documents. At Pg. 11-17 was a Notice to Cease leasehold Violations, and a Notice to Termination of Leasehold Violations appeared at Pg. 22-23. Both these documents pre-dated the citations (App. 2 & 3) subject of this petition.

Among the appended documents (at pg. 45) was a Special Civil Part case involving a suit for back rent amounting to $3,862.65 - this money had been paid

into court by a tenant who has since been evicted The suit for return of the money has yet to be heard by the Special Civil part of the Superior Court - the Landlord-Tenant court in New Jersey.

Attached at pg. 61 to the August 2, 1996 letter to the court (shown in the attached Appendix at App. 7) is a two page letter dated June 28, 1996 to Judge Jonathan Harris, Special Civil Part of Bergen County, stating that two one-month notice provisions provided for holdover tenancies was complied with as set forth in the 1995 edition of the N. J. Practice Series, pocket part p. 219 Landlord-tenant volume, but that the judge's request for an additional notice delayed both the ending of leasehold violations and the re-renting of the apartment.

Attached at pg. 35 was the following notice to the Hackensack Division of Property Maintenance: "attempting to do emergency repairs, I noted that flooding in the cellar was caused by main sewer line back-up. There were over twenty such back-ups and I was required to pump out the cellar twenty times (over 2,000) gallons of water being pumped out each time). No plumber will hang around four

hours to pump out your cellar. This water caused walls to weaken... which require that I do repairs ...On June 1 to 7, 1996, I worked on one pipe which was so clogged it broke three electric snakes and burned out an electric drain snake. When a 1/2" snake was placed in the drain, it failed to open the drain after it ran the pipe three times, and the snake's leader and head were both split prior to the drain's finally opening. Four hundred dollars of chemical had been (wasted) to open the main sewer drain."

At pg. 38 there was appended an April 24, 1996 contract with the Hackensack Roofing Company for roof repairs charging $2,500. A $500 down-payment was given this company. Nevertheless, petitioner received the citation at App. 3 stating that the repairs had not been completed. In fact, the adjacent land owner, the Gentile funeral parlor, erected a face around its property, and padlocked the entry, thereby preventing access to the house at 390 Park Street - the house whose roof was to be repaired. Apparently, this funeral home was allowed to operate its business in a residential zone, and in doing so erected the fence which is within three feet of the roof line. Since the house cited

within is two stories high, and there is an over-hang, a ladder cannot be erected straight up with the carrying of four feet by eight foot 5/8" plywood required to rebuild the roof. The city, knowing this, cited petitioner anyway.

The parking of abandoned cars by tenants/guests at the apartment house has produced many notices from Hackensack. Petitioner, in notifying all tenants, discovered that no one admitted owning any of the unregistered vehicles. The city police department has refused to ticket any of the cars parked at lot 24 by either the Gentile or Gutterman funeral parlors, causing the very problem which they seek to solve by their notices

Knowing full well that tenants/residents were damaging their apartments in order to seek rent reductions from the Special Civil Part - the presiding judge - Austin - is subject of petition 95-2045, the Hackensack municipal court has sought to act in conjunction with the state (App. 2, 3, 6) in citing petitioner for building code violations. In view of the caustic remarks recorded in the transcript shown at App. 30-48, it appears clear that a conflict of

interest has precipitated these citations being filed. Further, the failure of the city to provide a tax assessment reduction has been treated in an additional petition to the Supreme Court, No. 96-249.

CONCLUSION

The municipal court of Hackensack should not have allowed for the complaints herein to be docketed, given the pendency of the cases before the Superior Court of New Jersey and the Supreme Court. This court should be prohibited from hearing these matters until the pending tax matters have been duly adjudicated, due to the economic hardship involved.

Date: August 20, 1996

Respectfully Submitted - Salvatore Moretti

MUNICIPAL COURT OF HACKENSACK
STATE OF NEW JERSEY

SALVATORE MORETTI,
Petitioner

v.

LOUIS J. DINICE,
Respondent.

MOTION FOR LEAVE TO FILE PETITION
FOR WRIT OF PROHIBITION

Salvatore Moretti
390 Park Street
Hackensack, New Jersey 07601

Petitioner Salvatore Moretti moves the Court for leave to file the attached petition for writ of prohibition, and for an order directing the Honorable Louis J. Dinice, Judge of the Municipal Court of the City of Hackensack, State of New Jersey, respondent, to show cause why a writ of prohibition should not issue against him in accordance with the prayer in the attached petition and why petitioner Salvatore Moretti should not have such additional relief as the within cause of action may require.

August 20, 1996

Salvatore Moretti
390 Park Street
Hackensack, New Jersey 07601

App. 1

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

NO. 95-5754

MORETTI VS. DINICE.

Salvatore Moretti, Appellant
(New Jersey District Civil No 93-cv-0528)

ORDER

Pursuant to Rule 3(a) of the Federal Rule of Appellate Procedure and Third Circuit LAR Misc. 107.2

It is ORDERED that the above entitled case is hereby dismissed for failure to timely prosecute;

It is FURTHER ORDERED that a certified copy of this order be issued forthwith as the mandate.

For the Court,
Clerk of the Court

Date: June 28, 1996
cc: Salvatore Moretti
Robert Zimmerer, Esq.

App. 2

Municipal Court of Hackensack
County of Bergen. Docket No. 96-2057

STATE OF NEW JERSEY Case S010130
- vs -
SALVATORE MORETTI

Defendant/Alias: Salvatore Moretti
390 Park Street
Hackensack, N. J. 07601
Number of Co-defendants -
Complainant: Inspector Charles Eyer of the Hackensack Fire Headquarters, Upon oath says that to the best of his knowledge information and belief, the named defendant on or about the 25th day of July, 1996, in the City of Hackensack, N.J. 07601, County of Bergen, did; within the jurisdiction of this court and after due notice from the City of Hackensack fail to remove electrical cords in apartments, and remove or properly wire light fixtures in apartments and finally fail to pay $300 penalty, contrary to provisions stated in State of N. J. Uniform Fire code 5:18-2.12, #515, 18:3.3 A ivii viii of Municipal ordinance 27-90 known as the Fire Prevention code of the City of Hackensack
Subscribed and sworn before me this 26 day of July, 1996.

App. 3

Municipal Court of Hackensack
County of Bergen. Docket No. 96-1998

STATE OF NEW JERSEY Case S913084
- vs -
SALVATORE MORETTI

Defendant/Alias: Salvatore Moretti
390 Park Street
Hackensack, N. J. 07601

Number of co-defendants -

Complainant Julie Ferenczi of Community Affairs, upon oath says that, to the best of her knowledge, information and belief, the named defendant on or about the 17 day of July 1996, in the City of Hackensack, County of Bergen, did: within the jurisdiction of this court did fail to after due notice repair/replace roof east and south sides, repair facia/soffit at roofline scrape and repaint peeling, chipping wood surfaces showing rapid deterioration and decay contrary to chapter 3, section P, 30.0, paragraph 304.1 of Mun. Ord. 1-96 known as property maintenance code, Subscribed and sworn to before me this 19th day of July, 1996.

App. 4

HACKENSAK ROOFING CO., INC.
83 FIRST STREET
HACKENSACK, N.J. 07601
-8947-

Sal Moretti, Aril 24, 1996. The Hackensack Roofing Co. Inc. as the Contractor, agrees to furnish all materials and labor necessary for the work (specified below) on the premises located at No. 390 Park St., Hackensack, N. J. Remove all old shingles and shakes upper south side only install 5/8" plywood deck apply #15 felt and re-roof with GAF Royal Sovereign shingles (charcoal)

Total Cost: $2,500
Down payment 20% $500
The undersigned6 property owners agree upon completion of said work to pay the BALANCE $2,000.

In witness Whereof the undersigned have hereunto subscribed their names the day and year first above written.
Hackensack Roofing Co.,
and (s) Salvatore Moretti

App. 5

STATE OF NEW JERSEY - SUPEROR COURT OF NEW JERSEY, LAW DIVISION, SPECIAL CIVIL PART, Bergen County Small Claims, Bergen County Court House, 10 Man Street, Hackensack, New Jersey 07601. Phone: 646-2240 or 646-2236. Civil Action - Complaint

From Plaintiff: SalvAtore Moretti, 390 Park Street, Hackensack, NJ 07601 (201) 646-1414.

to Defendant Luis Fajardo, 391-C Park St. Hackensack, NJ 07601. $300.00 plus costs. Tenant Luis Fajardo in apt. 391-C Park St., caused speaker wire to be erected in apt. wiring up electric lights and hair dryer, resulting in filing by City of Hackensack violation notice. Illegal wiring must be removed and landlord Moretti seeks $300.00 due to court appearances, and failure of tenant to respond to Notice to cease and notice to correct violations. Date: 7/29/96. Plaintiff (s) Salvatore Moretti

App. 6

INSPECTION REPORT AND ORDERS OF THE COMMISSIONER. REGISTRATION NO 0223-07261-0. APT. 10. INSPECTOR FERENCZI. DATE ISSUED 5/13/96. BUILDING 0223. DATE RE-INSPECT. 7/13/96. PARK CT APTS BLDG. 1, 391 PARK ST., HACKENSACK. BLDG. NO. 1 OF 2 PLEASE take notice that the inspections conducted by the New Jersey Bureau of housing Inspection at the premises noted above disclose that violation exist at said premises in contravention of the Hotel & Multiple Dwelling Law and the "Regulations for the Maintenance of Hotels and Multiple Dwellings" promulgated thereunder. You are hereby ORDERED by the Commissioner to comply with the following orders and you are hereby ORDERED by the Commissioner to abate all the violations listed below by the date of reinspection listed above. Failure to comply with this notice and the Orders of the Commissioners will subject you to a penalty levied by the Department of Community Affairs in accordance with the provisions of the Hotel and Multiple Dwelling Law. (P.L. 1967, C76 as amended and supplemented: N.J.S.A. 55:13A-1 et seq.

Commissioner of Community Affairs: (s) Curtis F. Watts, Bureau of Housing Inspection

App. 7

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, EW JEREY 07601
(201) 646-1414

August 2, 1996
Clerk
Hackensack Municipal Court
Hackensack City Hall
65 Central Avenue
Hackensack, N. J. 07601

Henry J. Amoroso
Hackensack City Prosecutor
Nowell, Mattia, et al.
155 Polifly Road
Hackensack, N. J. 07601

re: State of New Jersey v. Salvatore Moretti, Docket No. 96-2057; State of New Jersey v Salvatore Moretti, Docket No. 96-1998

Dear Clerk of the Court & Municipal Prosecutor:

Be hereby advised that I received notices regarding the above two captioned complaints. I require discovery as to the nature of the complaining witnesses to be offered against me in these two municipal

matters. Kindly provide me with the bases upon which these complaints were filed, in particular the allegations of the Hackensack Fire Department and Ms. Ferenczi.

I have appended sixty-three pages of material related to these complaints, which show that there are conflicts of interest in the municipality's filing these complaints. I have notified you that I do not view notices sent to me proper when the problems complained of relate to leasehold violations committed by my tenants or guests of my tenants within their rented apartments. For example, one complaint relates to the tenant failing to maintain his or her smoke detector within his/her apartment. Clearly, the lease requires that the tenant maintain his/her own living space within his/her apartment and that he/she should not suffer waste within their apartment. The waste complained of is intentional misconduct by tenants despite my demands that they cease violations.

I have appended various complaints heard by the Superior Court in Bergen County, in which tenants have committed waste in and about their apartments. It is improper for me to be responsible for the derelictions of tenants

I have also appended excerpts of a deposition conducted by a lawyer for judge Louis Dinice, which clearly shows that there is an attempt by the judge to collect money from me, in a case relating to violations of my civil rights. In fact, I am currently suing the city police department in the United States Supreme Court, so it appears that many conflicts exist in the municipal trial within. I have appended the complaint I filed therein in which Judge Takvorian sitting as Hackensack Magistrate considered the matter involving Beverly Freeman and her complaints against me filed with the police department.

As you will note, the roof repair matter has been addressed in that I have contracted with the Hackensack Roofing Co. (App. 38) which informs me they have thirteen crews busy, delaying the commencement of work. They have already cashed my deposit check, and they have delivered materials to the front lawn.

Very truly,
(s) Salvatore Moretti
enc. 63 page APPENDIX

App. 10

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, EW JEREY 07601
(201) 646-1414

August 19, 1996

Clerk
Hackensack Municipal Court
Hackensack City Hall
65 Central Avenue
Hackensack, N. J. 07601

Henry J. Amoroso
Hackensack City Prosecutor
Nowell, Mattia, et al.
155 Polifly Road
Hackensack, N. J. 07601

re: State of New Jersey v. Salvatore Moretti, Docket No. 96-2057; State of New Jersey v Salvatore Moretti, Docket No. 96-1998

Dear Clerk of the Court & Municipal Prosecutor:

On August 2, 1996 I served upon the Clerk of the Court and the Hackensack Municipal Prosecutor, Henry J. Amoroso, a demand for discovery with respect to the

above captioned matters. I appended to my demand for discovery sixty-three pages of materials upon which I will be relying at the trial of the within matters. As you recall, the first two paragraphs of the letters were as follows:

> Be hereby advised that I received notices regarding the above two captioned complaints. I require discovery as to the names of the complaining witnesses to be offered against me in these two municipal matters. Kindly provide me with the bases upon which these complaints were filed, in particular the allegations of the Hackensack Fire Department and Ms. Ferenczi.
>
> I have appended sixty-three pages of material related to these complaints, which show that there are conflicts of interest in the municipality's filing these complaints. I have notified you that I do not view notices sent to me proper when the problems complained of relate to leasehold violations committed by my tenants or guests of my tenants within their rented apartments. For example, one complaint relates to the tenant failing to maintain his or her

smoke detector within his/her apartment. Clearly, the lease requires that the tenant maintain his/her own living space within his/her apartment and that he/she should not suffer waste within their apartment. The waste complained of is intentional misconduct by tenants despite my demands that they cease violations.

Be hereby advised that there are two Petitions Pending in the United States Supreme Court relating to the above captioned matters, namely, petitions docketed at No. 96-249 (in re Pizzuto), and 95-2045 (in re Austin). The two petitions call into question the conflict of interest relating to the citing of this party (Salvatore Moretti) with building violations when the violations relate to the leaseholds of third parties who are not notified of the citations nor bought to court to be cross-examined as to whether they caused the building violations complained of. Failing to bring these tenants/guests of tenants to court would allow for tenant destructiveness resulting in criminal acts on the apartment house property. This is clearly illegal under the criminal and civil laws of the United States.

Given that the City of Hackensack has failed to bring the tenants to court, I must insist that they do so. Also note that the pendency of the above noted United States Supreme Court cases should be considered, suggesting that an adjournment be granted so as to await the determination of the Supreme Court and/or review by the prosecutor of the two petition.

Kindly advise what you will be doing with regard to this notice, and whether in fact you will be re-scheduling the court appearances. While I expect. to be in court on the return date, I will await your response as to rescheduling.

Very truly,

(s) Salvatore Moretti

App. 14

SALVATORE MORETT
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

FEBRUARY 19, 1996

Office of the Clerk
United States Court of Appeals
for the Third Circuit
21400 United States Courthouse
601 Market Street
Philadelphia, Pennsylvania 19106-1790

re: Salvatore Moretti v. Louis J. Dinice and Timothy J. Sullivan, Docket No. 95-5732, D.C. No. 94-cv-06347

Dear Sirs:

I just received a letter dated February 15, 1996 from the Office of the Clerk in the above captioned matter. This letter states as follows:

Enclosed please find a certified copy of an order of an order, filed today, in the above captioned case.

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 95-5732

Re: Moretti v. Dinice

Present: Stapleton, Nygaard and Lewis, Circuit Judges

1. Motion by Robert Zimmerer, Esquire, counsel for Honorable Louis J. Dinice in No. 93-5581 for Attornyes' Fees and 2Expenses totaling $8,496.09.

2. A response has not been received.

(s) Kathleen O'Toole,
Deputy Clerk
Direct Dial: 597-5846

---------- order ----------

The foregoing Motion is/xxx: granted in the amount of $8496.09.

By the Court,

Dated: February 11, 1996

Crcuit Judge

In reviewing my motion to consolidate, I note the following in my November 29, 1995 motion papers, "in support thereof,

re: Salvatore Moretti v. Louis J. Dinice and Timothy J. Sullivan, Docket No. 95-5732, D.C. No. 94-cv-06347

petitioner is enclosing copies of his lengthy brief and appendix to the appellate division in the case of Moretti v. City of Hackensack, Docket No. A4913-94 T2, currently pending in the New Jersey Supreme Court, Docket No. 41,120. Also find petitioner's certification dated November 29, 1995, with attachments. I am providing copies of the foregoing materials to all of the defendants' attorneys, as shown in the proof of mailing. (s) Salvatore Moretti, Plainiff Pro Se, enc. cc.: The Defendants in Moretti v. State of New Jersey et al., C. A. Docket No. 95-5732; Moretti v. Dinice and Sullivan, C. A. Docket No. 95-5754; Moretti v. Zisa, et al., C. A.Docket No. - pending.

The seven hundred page two volume brief and appendix has been delivered to all of the defendants, but recently I received a letter from the court dated January 10, 1996 stating "this will acknowledge receipt on November 30, 1996, of an original and three copies of volumes one and two of your brief and

appendix captioned in the Superior Court of New Jersey, Appellate Division which were forwarded to our office on December 28, 1995, for a response. We note that you have not included a certificate of service indicating whether opposing parties have been served with copies of these documents."

Subsequently, on January 18, 1996 I wrote to the Clerk of the Court of Appeals, U. S. Court of Appeals - Third Circuit, 21400 United States Courthouse, 601 Market Street, Philadelphia, Pa. 19106-1790, In Re: Moretti v. State of New Jersey et al., C. A. Docket No. 95-5732; Moretti v. Dinice and Sullivan, C. A. Docket No. 95-5754; Moretti v. Zisa, et al., C. A. Docket No. 95-5843.

-- Dear Clerk of the Court: Enclosed find the proof of service to which you refer in your correspondence dated January 10, 1996. In that letter you state,

> This will acknowledge reception November 30, 1995, of an original and three copies of volumes one and two of your brief and appendix captioned in the Superior Court of New

> Jersey, Appellate Division which were forwarded to our office on December 29, 1995, for a response. We note that you have not included a certificate of service indicating whether opposing parties have been served with copies of these documents.
>
> "No action can be taken on your documents as your purpose in sending them in unclear. As noted earlier, both volumes of your brief and appendix are captioned in the Superior Court of New Jersey and contain a submission date of July 7, 1995. ...you have more than one appeal currently pending in this Court..."

My response on January 18, 1996 was as follows, "I am enclosing a copy of the proof of service dated November 30, 1995 which states in relevant part that:

> I placed in the United States mails for delivery to the within defendants the motion to consolidate the three causes of

action, the November 29, 1995 certification in support of consolidation with attachments, and the 670 page brief and appendix in the case of Moretti v. City of Hackensack, A-4913-94 T2.

The enclosed proof of service was very specific, and stated that "I, Salvatore Moretti, am the plaintiff pro se in the three causes of action shown above. On January 18, 1996 I placed in the Unted States mails in Hackensack, New Jersey for delivery to the within defendants the January 18, 1996 clarification with regard to my motion to consolidate. Also enclosed are several certifications setting forth factual issues. These certifications have been delivered to the N. J. Tax Court, and the underlying facts existed at the time of the motions to dismiss the within causes of action. The certifications indicate that hearings should have been held on the facts, that there were factual issues requiring examination, and that the cases were not frivolous and should not have been dismissed with imposition of sanctions. As noted, along with the motion to consolidate the three causes

of action, the November 29, 1995 certification in support of consolidation was delivered with attachments of the 670 page brief and appendix in the case of Moretti v. City of Hackensack, A-4913-94 T2. The list of defendants' attorneys is as follows..."

The factual certification (also delivered to the N. J. Tax Court) delivered to the United States Court of Appeals clearly state the factual contentions of the plaintiff, spot-lighting the multiple arrests by Louis Dinice, and the refusal to conduct trials when plaintiff Moretti was assaulted by one Killian Osuji. The multiple documents clearly show that plaintiff Moretti paid the Hackensack Water Company $21,250 for his water bill in a sixteen month time period, but nevertheless received a shut-off notice, along with jailing by Dinice in the Bergen County jail. In addition, the certifications referenced the acceptance of complaints by one Beverly Freeman against plaintiff Moretti. Freeman was indicted by the Bergen County Grand Jury, and in fact had been found guilty by Dinice of filing false complaints against officials in Hackensack, resulting

in her being sentenced to jail by Dinice.

The certifications filed in the Tax Court show that plaintiff Moretti was ordered out of his home with Dinice's knowledge, rendering collection of rent impossible. Further, the certifications state that when plaintiff Moretti appeared before Dinice's lawyer, Robert Zimmerer, Esq. of Lepore, Zimmerer, and LePore, that the lawyer was unprepared, had not appeared in any court to contest the matters sub judice, and that the complaint filed in federal court was dismissed by the trial court without hearings, without oral argument, and that papers submitted were not reviewed by the court because they had been advised the case was frivolous.

I hope that this clarifies the fact that misplaced papers should be considered in this matter. Since I have been submitting papers to the Supreme Court of New Jersey where two cases are pending, I believed the papers were read by the parties upon whom they were served. Apparently, they were not read by the parties in the past.

I am sending this notice to the court and the defendants on an emergent basis

- the imposition of sanctions of $8496 is bizarre for a property owner trying to do his job, but not being paid for his eighty hours per week of work. Despite time deadlines for submitting papers, I have produced over 1,000,000 pages of copying in the past ten years, at least some of which involved a case just filed with the Supreme Court of New York, (after it was presented to the United States Supreme Court).

Under these circumstances, I find the statement that I have not produced a reply opposing Mr. Zimmerer's request for $8496 not true. Mr. Zimmerer's claim of expenses due to having to read materials submitted by an expert in real estate with over a quarter century of experience is improper. Consider that a bank robbery is being considered by the Supreme Court of New York, said robbery being of funds belonging to plaintiff. This robbery took place in a federally insured bank in broad daylight. This robbery of over $7,000 of rent receipts renders payment of the sanctions imposed impossible. Further, it argues for the proposition that the cause of action herein is not frivolous. This letter is merely meant to be an emergent

response to the apparent misunderstanding relating to the basis for my request for consolidation, and the applications for emergent relief to the court, including consolidation. Failure to consolidate resulted in fragmentation of the cause of action in the past, and dismissal without opportunity to defend. It should not re-occur.

(s) Salvatore Moretti
Plaintiff Pro Se8
cc: All Defendants

App. 24

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

FEBRUARY 21, 1996

Office of the Clerk
United States Court of Appeals
for the Third Circuit
21400 United States Courthouse
601 Market Street
Philadelphia, Pennsylvania 19106-1790

re: Salvatore Moretti v. Louis J. Dinice and Timothy J. Sullivan, Docket No. 95-5732, D.C. No. 94-cv-06347

Dear Sirs:

.....I responded as follows: "In reviewing my motion to consolidate, I note the following in my November 29, 1995 motion papers, "in support thereof, petitioner is enclosing copies of his lengthy brief and appendix to the appellate division in the case of Moretti v. City of Hackensack, Docket No. A4913-94 T2, currently pending in the New Jersey Supreme Court, Docket No. 41,120. Also find petitioner's certification

dated November 29, 1995, with attachments. I am providing copies of the foregoing materials to all of the defendants' attorneys, as shown in the proof of mailing. (s) Salvatore Moretti, Plainiff Pro Se, enc."

I understand the court's comment that the papers submitted to it may have been reviewed in connection with other matters, or might not be considered germane to the issue of attorney's fees, etc. However, the only papers submitted by the defendant Dinice is a six page brief dated July 28, 1993. There was no discovery allowed in the case of Moretti v. Dinice and Sullivan, 93-528 (JCL), and there were no motion hearings conducted, nor were there post trial motions allowed. Since the theory of the decision by Judge Lifland was absolute immunity from a frivolous lawsuit, there was no appeal possible since no testimony appeared in evidence to contradict that appraisal.

Nevertheless, the complaint filed in that case was clear. Water was shut off in an apartment house assessed $766,000, an plaintiff was arrested by Dinice and incarcerated twice due to non-payment of a water bill. Even after payment of $20,000

on that water bill, plaintiff was again incarcerated in September, 1995 by Dinice due to a complaint filed by Freeman (transcript of trial before Judge Takvorian attached). in fact, all the issues in 1993 exist today in the subject neighborhood, suggesting that the underlying cause of action was meritorious. Premature dismissal denied discovery, but the certifications to the New Jersey Tax Court prove that plaintiff's position was substantive.

The zoning disputes involving Palladino and Faith Temple show variances granted to individuals who were in arrears on their real estate taxes, contrary to the Hackensack zoning code- the implication is that residents are denied zoning protection in favor of non-residents. Ratner Oldsmobile was driven into bankruptcy, while residential users were burned out of their homes at 381 Passaic Street, and 385 Passaic Street.

Plaintiff within was arrested for merely collecting his rent at 90 Park Street due to complaint by one Beverly Freeman (transcript attached), while his tenants disassembled the fire alarm system (nineteen smoke detectors were found

defective in one day). Plaintiff was robbed at Citibank (New York Supreme Court complaint Index no. 2727-96, attached and made a part hereof). Banks denied plaintiff loans, despite his long time management of the subject premises, while assessment practices refused to decrease assessment.

The gist of the foregoing is that the award of $8,496.09 to Zimmerer is unjust, since plaintiff's position is substantive; appeals to the Bergen county chancery court and law division, and to the state appellate courts have proven futile.

Kindly review the attachments made a part hereof and advise.
By copy of this letter, I am providing copies of this letter and attachments to the defendants as set forth in the proof of service.

(s) Salvatore Moretti
Plaintiff Pro Se

enc.
cc: All Defendants in Cases to be Consolidated

Salvatore Moretti
Plaintiff Pro Se
390 Park Street
Hackensack, New Jersey 07601
(201) 646-1414)

UNITED STATES COURT OF APPEALS

SALVATORE MORETTI, Plaintiff	: THE THIRD CIRCUIT
- vs -	:DOCKET No. 95-5732
LOUIS J. DINICE, and TIMOTHYJ. SULLIVAN, Defendant	:D.C.No.94-cv-06347

PROOF OF SERVICE

I, Salvatore Moretti, am the plaintiff in the above captioned lawsuit, and make this certification under oath as follows:

1. On February 22, 1996, I deposited in the mails in the Hackensack Post Office an objection to filing of an order imposing $8,496.09 as attorney's fees in the above captioned cause of action. The postpaid envelopes were directed to the following:

Office of the Clerk
U. S. Court of Appeals- Third Circuit
21400 United States Courthouse
601 Market Street
Philadelphia, Pa. 19106-179

Robert Zimmerer, Esq.
LePore, Zimmerer, and LePore, Esqs.
Park 80 West
Plaza One
Saddle Brook, New Jersey 07663

Deborah T. Poritz, Attorney General
Office of the Attorney General of N.J.
Department of Law and Public Safety
Division of Law
Richard Hughes Justice Complex
Market and new Warren Streets
Trenton, New Jersey 08625

Christopher McGarry Esq.
Nowell, Amoroso Esqs.
155 Polifly rcad
Hackensack, New Jersey 07601

Adele Rebell, Esq.
Office of Bergen County Counsel
Administration Building
21 Main Street
Court Plaza South
Hackensack, New Jersey 07601

The foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date: February 22, 1996

Transcript of Proceedings - Deposition of Salvatore Moretti

Case: Salvatore Moretti v. Louis J. Dinice and Timoth J. Sullivan.

Case Docket No.: United States District Court, District of New Jersey Civil Action No. 93-58(JCL)

Deposition On May 23, 1994. at the office of LePore, Zimmerer, and LePore, Appearing on behalf of Dinice and LePore, Douglas W. Kortrey, Esq., at office located at Park 80 West, Plaza 6ne, Saddle Brook, N. J. 07662.

T3-22. Moretti: You now have a copy of a nine-page application to stay, a mandamus, which has been filed with the United States Supreme Court in Washington, D. C. along with the petition for certiorari in the case of Moretti v. Zisa, e al. My understanding, therefore, is that the application to stay is in the hands of an Appellate Court, which in fact I believe will rule favorably in this case.

T7-5. Douglas Kortrey of Law Firm of Lepore, Zimmerer, LePore: I will read it (the stay and the petition for certiorari) at a later time, Mr. Moretti, buy we're here today pursuant to an Order of Discovery, signed originally by the trial court back in, I believe, December or January. We followed up and submitted an

Order for Arrest. I have and I have shown you the letter from Magistrate Hedges dated May 9, 1994, wherein you were ordered to appear here today and give testimony under oath concerning your assets and things in action. That is the sole purpose why we are here today...
T12-12: Kortrey: You live in an office?
Moretti: Well, my site address is 390 Park Street.
Kortrey: Your site address. Where do you reside?
Moretti: That's my address, 390 Park Street in Hackensack.
Kortrey: That is where you live?
Moretti That is my address.
Korrey: Is that where you live?
Moretti: It's been asked and answered.
Kortrey: No, it hasn't...Do you reside at 390 Park Street?
T12-25. Moretti; It's been asked and answered.
T13-1. Kortrey: What is your occupation?
Moretti: Apartment house manager.
Kortrey: Is that the apartments at 390 Park Street
Moretti: It's on Park Street in Hackensack.
Kortrey: Who owns that property on Park Street?
Moretti: Well, it's listed in the

jurisdictional statement, in the complaint. If you've read the complaint, the jurisdictional statement states that I am the property owner of the apartment house property and it gives my name, my address, my telephone number. I would note, incidentally, that I never received an answer to the complaint. The complaint was filed February 1st of 1993. It is now May of 1994.. I have never received an answer from LePore, Zimmerer, LePore to the complaint. But I assume for reference today that you have both received the complaint and read and understood the contents of the complaint.

Kortrey: You can work under whatever assumptions you want. I'm going to continue.

T16-2. Kortrey: How many hours a week do you work on average as an apartment house manager?

Mretti. I would say over 40 hours.

Kortrey: Over how many days?

Moretti: Well, the only way to answer that question is to state that apartment house management is responsible for the apartment house 24 hours a day, seven days a week. So it's a job which requires management over that time period.

T16-11: Kortrey: If I understood you earlier, this is your own property that

you manage?

Moretti: My own property, well, it's -- I think the nature of the complaint, that is a civil rights complaint, questions whether the ownership of the property and the purpose of the property is consistent with the federal (and general) concept of ownership. That's an issue in the complaint. It's not an issue for discovery. In other words, the complaint says the way in which the apartment operates - this puts in doubt your question (whether) the operation of the property (is) consistent with ownership purposes or management purposes or maintenance purposes. That's the complaint you received. If you read the complain, I would incorporate the statements within the complaint as allegations which are here verified under oath and affirmed as being truthful and consistent with the federal actions which have been filed and with the petition of certiorari which has been filed in Washington.

t18-9. Kortrey: How are you compensated for your work as apartment house manager?

Moretti: That is what the application to the Supreme Court discusses in detail, which you have not read and you have chosen not to. I point out those issues

on pages three, four, five, six, seven and eight, which refers to compensation. I cannot improve upon that answer. It should be incorporated in these proceedings as responsive to that point.

T18-19. Kortrey: I'm not going to read paragraph X, Y, Z and so on...How are you compensated for your employment as an apartment house manager?

T18-24. Moretti: The complaint states it specifically which you have before you and which the courts have before them and the related matters of Moretti v. Zisa, et al, and Moretti v. State et al., Docket No 92-4206 and 93-5577 respectively; there is no compensation for the work described in the jurisdictional statement. That's what makes a civil rights complaint - the fact that you are not being compensated but you are required to work at and be present on the subject property.

T19-8. Let's try it this way. What's your annual gross income?

T19-10. I don't have any of the records excepting for those which are set forth in the application, which states at page six that the real estate taxes are $25,000 per year. The cost of water is $7,500 per year. Cost of fuel oil is $12,000 per year. Cost of gas and electric $6,000 per year. The rental income on average would

be under $500 per month. The problem there is that the wages, the allowable, minimum wages allowable for maintenance work to comply with the federal statues requires that an individual working for 40 hours a week should make a considerable amount of money. They should make at least $127.50 per week according to the old guidelines, and more now. And because of the curtailment of the [rental] income and the increase of the expenses, that simply does not produce - with the vacancy rates being what they are today and the high turnover of tenants, with the number of evictions and with rent losses of 30 evictions with $1,000 or more lost each eviction - it simply doesn't square with taking any salary out or deriving any benefit from the subject property. That is the basis of the civil rights complaint, as I stated.

T20-4. Kortrey: Is it your testimony that you have no annual gross income? From that soliloquy, I would gather that that is your testimony here today.

T20-7. Moretti. I would want to prepare all of the income and expense statements and go over them in order to answer that.

T20-9. Kortrey: You were supposed to have done that when you came here today for purposes of this proceeding...and that was

clear in the petition for discovery... Moretti. I do this work diligently and all of this work which could possibly be done was done. When I give you these figures, they are accurate figures.
T20-17. Kortrey: That takes into account the business of running your property?2 I'm asking you for your personal annual gross income.
T20-20. Just [adding together) those (expense) figures that I gave you is in excess of $50,000 in costs. Excluded from this are all of the cost of maintenance, all of the costs of supplies, all of the costs of insurance, all of the costs of (outside) labor, filing fees, (federal and state) taxes. And when you add those costs in, the operating costs would exceed the (rental) income.
T21-1. Kortrey: I will ask you again, what is your personal annual gross income, and I would add that I would move to strike our testimony that you just gave if need be because it's non-responsive to the question. I'm not ask2ing how much it cost you to operate your property. I'm asking what's the bottom line that Mr. Moretti realizes.
T21-7. Moretti. Let me give you some specifics. I just evicted a person from an apartment. The person owed $3,000 in

rent. The person had been before Landlord-Tenant Court a minimum of five times and was allowed to continue time after time until finally it became evident that this was a loss in rent and we simply weren't going to be able to collect. I think it's more than $3,500.

T21-14. Kortrey. Mr. Moretti, please answer my question. You're not doing that. I'm not asking for you to give me your life story here.

T21-17. You asked the other question, "what does a manager (of an apartment house) do? I'm discussing evictions. I have another apartment where if I can -- it's even discussed in the complaint. The individual bounced four checks totaling $3,000. You client, Dinice, felt that it wasn't the tenant's fault. In fact, the tenant moved out and -- this gives you an idea of the problem of conflict in your question. Your question, while it seems to be honest, in one sense what you're doing is saying I'm not going to allow you to collect rent because, for example, someone may be unable to live in their apartment for a year but we will conduct discovery and claim that you're not being responsive to discovery. The issues are right in the complaint. I am not going to repeat the complaint, but the point is, just in that

instance there was a loss of at least $3,000, There were --
T22-7. Kortrey. Mr. Moretti --
T22-8. Moretti. There were at least 30 evictions similar to this which are reflective of the problem of deriving income or salary while maintaining property in accord with the maintenance and housing guidelines of the municipality and of the State promulgated by the Department of Community Affairs. I hope that answers your question.
T22-14. Kortrey. That did not answer my question. I'm going to ask it again. What is your annual gross income in terms of dollars?
T22-17. Do you take issue with any figure I've given to you?
T-22-18. Kortrey. I'm not here to answer the questions and I won't. I will ask the questions.
T22-20. Well, I simply point out that I've given you figures. Do you accept them? And you refuse to state whether you accept the figures I've given to you. I think that calls for no further comment on your part that the figures I've given to you are not responsive. They are responsive and I will stick with the figures I've produced.
T23-1. Kortrey: That's all very well and

good. Now, if you can answer my question, what is your annual gross income?
T23-3. Moretti. I think you should have the transcriber reread this series of questions and answer which has gone on -- it is now, I believe, 15 minutes since we've been on this question. It is approximately 10:35 and we've been on this very question since about 20 after ten.
T23-8. Should we call Magistrate Hedges and see if he will make a determination as to whether your answer is responsive to the question?
T23-11. Moretti. Now you want to interpose a phone call? If you, sitting there listening to my responses, cannot even state if any of the figures given you were accurate or not, how do you expect Magistrate Hedges over the phone to arrive at his decision?
T23-16. Kortrey. The question is not whether your figures are accurate. For the purposes here, we could assume they are. The question here is, what is -- allow me to finish my question and then you may talk because I am being patient and letting you speak all you want. If you would allow me to finish my question, maybe we could proceed a little faster here this morning. If I assume these numbers are right, that still doesn't help

me or did not allow me to hear from your mouth what is your annual gross income. And that was the simple question put in its simplest, must pure form.

T24-1. Moretti. There are many simple questions which are simply disguised complex questions. I've already answered that at least five times. I think you're being argumentative at this point. You are arguing the point which is set forth in the moving papers and in the complaint to which you have given no answer. You have not appeared at any of the motions before Magistrate Hedges or Judge Lifland. You have not appeared with respect to the dismissal, with respect to sanctions or with respect to discovery. I appeared at all of those and requested your appearances but you failed to appear. You failed to argue the point. You failed to make a record. And you failed to proceed. That's in the motion papers sent to the court. It's on record that you have not engaged in oral argument. You have not answered any discovery. You have not complied with any discovery rules under the Federal Court Rules. You have not answered any interrogatories.. You have not been deposed. You simply filed a motion to dismiss and you're proceeding at this time in this way. Its simply

argumentative.

T28-18. Moretti. We are right in the tax season and what apparently you're seeking to do is to get specific responses for at least the 25 items which I just related, plus to do the type of work which a lawyer would do in the deed vault....

T29-22. Moretti. The trial court had no jurisdiction. The trial court never conducted any hearings. The trial court would not know whether anyone filed any papers because there was no motion hearing. There was no oral argument. There was no discovery. there was no settlement conference. There was no scheduling conference.

T29-25. Kortrey. Are you done?

T30-12. Kortrey. On or about October 19, 1993, Judge Lifland awarded sanctions against you in favor of defendant Dinice in the amount of $1,613.65. That amount remains outstanding.

T30-15. Moretti. That's on appeal.

T32-4. Kortrey. In that Petition for Discovery -- and I'm reading from paragraph ten of that petition -- and I quote, "Accordingly, petition prays Your Honor to make an order requiring plaintiff Salvatore Moretti to appear and make discovery upon oath concerning his property and things, at the law offices of

LePore, Zimmerer & LePore located at Park 80 West, Saddle Brook, New Jersey, on February 23, 1993, at 2:00 p.m., and to bring with him the following items: all deeds to real property in which plaintiff has an interest; appraisals of all real property in which plaintiff has an interest, records, statements and cancelled checks reflecting all bank accounts in which plaintiff has had an interest in the last two years; schedules of all plaintiff's property and assets and their location including but not limited to all goods, chattels, debts or loans due to plaintiff; accounts receivable, vehicles, goods, machinery and equipment, copies of all plaintiff's tax return and appended schedules for the past two years.
T34-15. Kortrey. You failed to appear for scheduled deposition February 23rd, 1994 at 2:00 p.m. in the afternoon.
T34-18. Moretti. It was snowing and it was freezing that day.
T34-19. Kortrey. Correct. I wish you would refrain from speaking.
T36-6. Moretti. Well, I have it in black and white that I have ten cases with $3,000 in the courts and the courts simply haven't come up with the cash to support what's in the papers. So its a matter of being responsive to the real world facts.

What I ask you, when you're talking about painting, sanding, plumbing repairs and who gets paid for it and how much are they going to collect for plumbing repairs for two years, there was no response. You didn't even consider it a question. You didn't even consider it an issue. You don't consider it an issue whether or not an individual is able to prepare the documents while answering your moving papers. Your moving papers were not responsive. They didn't provide any discovery. I don't know if Louis Dinice checked the case, checked with the water meter, checked with the tenant of a complaint. We have no response. It's evasive.

T36-20. Kortrey. I would have to object with [sic] that statement.

T36-21. Moretti. It's true. There are no admissions. There's no discovery.

T36-23. Kortrey. There's no need for discovery because there's no complaint. It's been dismissed.

T36-25. Moretti. The Federal Rules require that discovery be allowed in a case. It wasn't allowed and because if it's not being allowed, I can't give you a yes or no answer to questions which you think are simple.

T37-4. Kortrey. Terrific. That's fine. I

accepted that answer. I went back to the Petition for Discovery.

T37-23. Kortrey. The point is you're in contempt of this (discovery) Order.

T38-25. Moretti. You suppied a form. You just pointed to a form which you supplied which is from Allstate Legal Supply. Allstate Legal Supply has a form entitled "Supplementary Proceedings". That form sets forth what you're entitled to now. You provided a copy of that form to the Court alleging those are the types of questions which you were interested in. You provided a copy to either mislead me and the Court or to tell us correctly the type of information you seek.

T39-8. Kortrey. That's not an accurate characterization. That document was annexed to show the date it was faxed through - February 23, 1994 at 2:02 p.m. It showed that the fax machine in this office was working. I'm going to ask you again, did you bring any appraisal of any real property that you have an interest in?

T39-4. Moretti. It shows the fax machine -- who was it that faxed to your fax machine which was working.

T39-16. Kortrey. Correct.

T39-17. Moretti. You know, now that you refer to your fax machine, this Order was

secured on the basis of a mid-winter date, and on that date in question I faxed you a notice and then I mailed it to you and I believe you received it. You're not objecting to it now. You apparently are going back to that date claiming that you didn't receive the fax when in fact I gave you prompt notice of the difficulty of arriving on the appointed date due to the fact of snow conditions and ice, freezing rain and temperatures which were at least in the area of 20 to 25 degrees, ten degrees below freezing.

T41-9. Moretti. The only way I can answer that is to say that in the complaint, in the jurisdictional section, there is set forth the assessment of properties which is an element in the complaint, and that relates to an issue. You don't solve the issue by simply getting into an argument.

T41-14. Correct. That's absolutely right.

T41-15. Moretti. It requires a very straightforward approach. If you think that in supplemental proceedings you're going to get into material subject of other litigation, you're incorrect. If it's subject to other litigation pending in the tax court of New Jersey, you're not entitled to that information.

T41-20. Kortrey. I beg to differ with you there.

T42-20. Moretti. It's a pending complaint before the [United States] Supreme Court. The issue is -- goes back to salary. Let's say the Supreme Court hears this case and says I'm entitled to $50,000 a year for calendar years 1992 and 1993. Now, where's that money going to come from? You see, that's a question and your moving papers skirt that question. They don't address it.

T42-25. Kortrey. I don't know what moving papers you're talking about.

T48-16. Kortrey. Are you self-employed?

T48-17. Moretti. To answer the question, do I consider myself self-employed? I would have to say that I do not consider spending a year without salary to be self-employed. In other words, I don't consider wasting my time for a year to be self-employed.

T48-21. Kortrey. Are you employed by another person or business entity? When I say "another" that means other than yourself.

T48-24. Moretti. Not of which I am aware.

T49-22. Moretti. The jurisdictional statement refers to the jurisdiction of your client [Louis Dinice] as a Hackensack lawyer who is named as a defendant. The issues arose because of questions on the topic of water consumption, odors in the

cellar, extermination services, and an assault and battery case, [all of which came before Louis Dinice as judge] and so forth. The jurisdictional statement goes into detail. You would really have to be specific as to ownership interests of which I may not be aware of or familiar with what you're referring to at this time.

T54-22. Kortrey. We're here for an Order of Discovery which is basically addressed to allowing defendant Dinice to collect the amount that was imposed against you as sanctions.

T54-25. Moretti. You're being argumentative.

T55-1. Kortrey. No I'm not. I'm stating a simple fact.

T55-2. Moretti. You want to argue a lawsuit in court.

T55-3. Kortrey. No. I'm not arguing.

T55-4. Moretti. These are court arguments. You're saying in consideration of the application in the Supreme Court when I go over the motion papers and the briefs filed and the complaint and whatever exists in the trial court, how do you propose that I should phrase my position? It's up to you to consider based upon your position in the case.

T55-17 Moretti. What I have done is I have addressed the equities or the legal problems in the trial court. Now if you feel that you don't have enough information, you should go to the trial court and say, "Boy, were you wrong. You shouldn't have dismissed this case at this point because I don't know this. I don't know that. I don't know all of these important facts. You shouldn't have dismissed."

T55-24. Kortrey. The only thing that I don't know is or are where your assets are located so I can send a Federal Marshall to levy. That's the purpose of this.

T61-13. Kortrey. I never threatened you. I told you how we will proceed. I am giving you my strategy. I am laying it on the table, but you don't. If you don't want to answer these questions, I will have to make another application to Judge Lifland regarding the questions that you've refused to answer. That's as simple as we can make it.

T61-19. Moretti. You want to debate -- I'm sorry. I'm not going to debate.

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

February 6, 1996

Office of the Clerk
United States Court of Appeals
for the Third Circuit
21400 United States Courthouse
601 Market Street
Philadelphia, Pennsylvania 19106-1790

RE: MANDAMUS - SALVATORE MORETTI v. HAROLD A. ACKERMAN; in re: Salvatore Moretti v. Mayor John Zisa and the Hackensack City Council; George Diana and the Board of Adjustment; Patricia Farlie and the Hackensack Health Department; C. Morrissey and the Hackensack Police Department; Henry Amoroso, Hackensack Prosecutor; The Hackensack Water Company; Gutterman-Musicant, Inc.; and G. Thomas Gentile, Court of Appeals Docket No. 95-5843.

Dear Clerk of the Court:

Enclosed find petitioner's application for a writ of mandamus under United States Court of Appeals Rule 21 in the above captioned matter. Also enclosed find the fee of $100.00, Certified Check No. 705.

The mandamus is directed to require Judge Harold A. Ackerman, of the United States District Court, United States Courthouse, Newark, New Jersey to act in the above captioned matter.

When this case was before Judge Ackerman, it was docketed as No. 92-4206(HAA). The enclosed petition has attached to it a certification upon which petitioner will rely.

(s) Salvatore Moretti, Pro Se Plaintiff

Salvatore Moretti, Petitioner Pro Se
390 Park Street
Hackensack, New Jersey 07601
(201) 646-1414

UNITED STATES COURT OF APPEALS

SALVATORE MORETTI:
Petitioner :Docket No. 95-5843
- vs. - :
H. A. ACKERMAN, :
Resondent

CERTIFICATION IN SUPPORT OF GRANT OF PETITION FOR WRIT OF MANDAMUS

Salvatore Moretti, under oath, by way of certification in support of the granting of the petition for writ of mandamus, hereby states:

1. I am the petitioner in the above captioned mandamus, and I filed a civil action in the United States District Court in Newark, New Jersey, on October 6, 1992, captioned as Salvatore Moretti v. John Zisa, et al., which was docketed as 92-CV-4206(HAA).

2. On May 6, 1993, Harold A. Ackerman, Respondent, signed an opinion which denied the relief sought by petitioner, and subsequently on June

21, 1993 signed an order dismissing the complaint.

3. Petitioner's complaint was filed under 42 United States Code Sections 1981, 1982, and 1983, etc., the Civil Rights Statutes, and claimed in part that petitioner's apartment house property had tripled in assessment (going up $500,000 from $250,000 to $750,000), with other assessed parcels assessed $250,000, for a total of one million dollars. The other parcels consisted of a vacant lot which could not be built on (due to a sewer moratorium), and a single family house (which could not be rented due to neighborhood conditions).

4. The thrust of Judge Harold Ackerman's opinion rendered May 6, 1993 was as follows:

> **[In] Fair Assessment, the Supreme Court held that the principle of comity prevents a federal court from granting damages in a Section 1983 case if a "plain, adequate and complete remedy" may be had in state court. Id. at 116; see also Hardwick v. Cuomo, 891 F. 2d 1097, 1104 (3d Cir. 1989) (comity supplements Tax Injunction Act when only monery damages are sought)...New Jersey provides several remedies which**

afford the plaintiff an opportunity to raise all constitutional objections to the allegedly wrongful property assessment. For example, N.J.S.A. 54:3-21 provides that a taxpayer aggrieved by the assessed valuation of property may appeal to the county board of taxation. [N.J.S.A. 54:3-21 also provides that if the assessed value of property exceeds $750,000, the taxpayer may file a complaint directly with the tax court.] If a party is dissatisfied with the county board's determination, he or she may seek judicial review of the determination by filing a complaint in the tax court. N.J.S.A. 54:51A-1. Thus, New Jersey law provides for an administrative determination, as well as judicial review of that determination. A taxpayer, moreover, is not limited to this review procedure. New Jersey also has a statute providing for declaratory judgment actions. See N.J.S.A. 2A:16-53. See Sipe, 689 F. 2d at 405. Finally, a plaintiff may bring a Section 1983 action in state court. See Peper v. Princeton University Board of Trustees, 77 N.J. 55, 74 (1978) (New Jersey courts have the jurisdiction to

interpret federal statutes and decide federal claims); see, e.g. Timber Properties, Inc. v. Chester Township, 205 N.J. Super. 273 (Law Div. 1985) (Section 1983 action). New Jersey, therefore, provides sufficient remedies affording plaintiff the opportunity to raise any constitutional objections to the real property tax assessment. See Fair Assessment, 454 U.S. at 116-17 (availability of state court Section 1983 action supports withholding of federal jurisdiction); Long Island Lighting Co. v. Town of Brookhaven, 889 F.2d 428, 432 (2d Cir. 1989) (same); Sipe, 689 F.2d at 405-08 (adequate remedy where state court has jurisdiction to decide federal claims). Because New Jersey provides a plain, complete and adequate remedy, this court lacks jurisdiction over any claim regarding the allegedly wrongful property value assessment.

Moretti also alleges that the City Council allowed parking to occur on his property by defenant Gutterman. This claim, however, is not pled with sufficient specificity and will therefore be dismissed.

5. In fact. petitioner appealed his real property assessment to the New Jersey Tax Court on March 30, 1993. When that case, Tax Court Docket No. 8333-93, came to trial it was the decision of the court that it did not have jurisdiction. Petitioner's brief to the Supreme Court of New Jersey cited to IRS Letter Ruling 8949002, issued August 25, 1989. That ruling suggested that an employment relationship was established between Hackensack and petitioner, such that petitioner should be paid for his employment. The N. J. Supreme Court filed its denial of the petition for certiorari January 4, 1996.

6. Since the Tax Court dismissal above noted in paragraph five was based in part upon petitioner's failure to timely file an appeal for his 1991 taxes, petitioner again filed with the Bergen County Tax Board his real property tax assessment on his three parcels, the apartment property (Block 418, lots 22 and 23), the contiguous vacant lot (Block 418, Lot 24), and the house (Block 415, lot 8.b). These three appeals were

docketed as 23-95-00109, 23-9500110, 23-9500111.

The decision of the Bergen County Tax Board on September 13, 1995 was that the three assessments were to remain the same, $733,000 (the apartment house at Bl 418, lot 22-23), $115,300 (the vacant lot at Bl. 418, Lot 24), and 111,000 (the single family house at Bl. 415, Lot 8.b). This decision was appealed to the New Jersey Tax Court. The complaint was docketed as No. 9479-95. Petitioner once again moved for temporary restraints on the collection of taxes by the taxing district. The City of Hackensack has opposed any reduction in tax assessment on the three parcels. In support of petitioner's application for temporary restraints, petitioner supplied the state tax court with certifications showing that petitioner was jailed in September, 1995 for renting his house at 390 Park Street, Hackensack, on the basis of a frivolous complaint filed by a tenant two months behind in his rent. In addition, petitioner showed in his certifications that

his mortgage was being recalled by his mortgagee, that his tenancy was in hardhsip and damaging the buildings (breaking plumbing, tampering with plumbing by releasing sewage into crawlspaces, changing locks, dismantling fire alarms, producing false smoke alarms, disconnecting lighting, and interfering with management in general.) In fact the adjacent 72 unit apartment house had been sold back to the prior owner for "zero dollars" by the doctor who owned the property. Two dozen condominiums on the same block, Park Street, were sold by the Sheriff of Bergen County, for zero dollars up to $20,000 for units assessed over $60,000. The house adjacent to petitioner's apartment house suffered a serious fire and was shut down. The adjacent funeral parlors expanded their uses. A nearby property owner of several decades on Passaic Street had been rendered bankrupt. The new owner was granted a variance for a "pot and pan showroom," despite his being $110,000 in arrears in tax payments. A nearby food store, the new Way Supermarket, was shut down due to

angry slurs cast against its owner-operators.

8. As a result, the economic hardship sustained by petitioner is extreme. It is clear from the length of time of involved, from 1991 to 1996, that no speedy action by the state or its administrative agencies has been forthcoming. The constitutional issues are evident, but the state has not and cannot provide constitutional remedies in the subject case

9. For the foregoing reasons, petitioner is applying to the Court of Appeals to issue a mandamus compelling Judge Harold A. Ackerman to provide remedies in the case filed before him in 1991, Docket No. 92-4206 (HAA).

10. The foregoing statements made by me are true. I am aware that if any of the foregoihjng staterments made by me are willfully false, I am subject to punishment.

Dated: February 7, 1996

Signed: _____

SALVATORE MORETTI,
PETITIONER PRO SE

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

March 12, 1996

Office of the Clerk
United States Court of Appeals
for the Third Circuit
21400 United States Courthouse
601 Market Street
Philadelphia, Pennsylvania 19106-1790

RE: Petitione for Re-hearing, of Case Dispositive Order denying issuance of a MANDAMUS in the case of - SALVATORE MORETTI v. HAROLD A. ACKERMAN Case No. 95-5732, in re: Salvatore Moretti v. Mayor John Zisa and the Hackensack City Council; George Diana and the Board of Adjustment; Patricia Farlie and the Hackensack Health Department; C. Morrissey and the Hackensack Police Department; Henry Amoroso, Hackensack Prosecutor; The Hackensack Water Company; Gutterman-Musicant, Inc.; and G. Thomas Gentile, Court of Appeals Docket

No. 95-5843.

Dear Clerk of the Court:

Enclosed find petitioner's application for a re-hearing of the denial of the writ of mandamus in the above captioned matter. Petitioner applied for a writ of mandamus under United States Court of Appeals Rule 21 in the above captioned matter on February 6, 1996.

Very truly,

_____

Salvatore Moretti, Petitioner Pro Se

enc.

Salvatore Moretti, Petitioner Pro Se
390 Park Street
Hackensack, New Jersey 07601
(201) 646-1414

UNITED STATES COURT OF APPEALS

SALVATORE MORETTI, :
Petitioner : Docket No. 95-5843
- vs. - :
HAROLD A. ACKERMAN;
Respondent

FOR WRIT OF CERTIFICATION IN SUPPORT OF REHEARING FOR WRIT OF MANDAMUS

Salvatore Moretti, under oath, by way of certification in support of the granting of the re-hearing of the petition for writ of mandamus, hereby state:

1. I am the petitioner in the above captioned mandamus, and I filed a civil action in the United States District Court in Newark, New Jersey, on October 6, 1992, captioned as Salvatore Moretti v. John Zisa, et al., which was docketed as 92-CV-4206(HAA).

2. On May 6, 1993, Harold A. Ackerman, Respondent, signed an opinion which denied the relief sought by petitioner, and subsequently on June 21, 1993 signed an order dismissing the complaint.

3. On August 1, 1995, I transmitted via certified mail, Z 726-879-016, Ret. Rec. Req. a letter of transmittal to Hon.

Harold A. Ackerman, U. S. District Court judge of the District of New Jersey, my six hundred seventy page two volume brief and appendix which I had just filed with the New Jersey Appellate Division, A-4913-94T2. That document was received August 2, 1996 by Judge Ackerman, as represented by the green receipt card attached hereto.

CERTIFICATION IN SUPPORT OF GRANT RE-HEARING OF PETITION FOR WRIT OF MANDAMUS, March 12, 1996, p. 2

4. Based upon Judge Ackerman's receipt of this extensive tax court appeal document, he was fully advised as to petitioner's case before him relating to the defendants named within. His reliance upon relief to be provided within the state court system such as the New Jersey Tax Court has been without justification, as proven by the fact that petitioner's most recent attempt to suspend collection of taxes on the site of the tax appeal, 390 Park Street, 391-7 Park Street, and 387 Park Street, produced no response current to March 12, 1996.

Photographic evidence to date shows that the tenancy of the subject twenty unit

apartment house utilizes bicycles to transport themselves to and from work, suggesting that hardship is significant. This hardship is accerbated by the unconstitutionally high assessment of the apartment house property.5. Petitioner on March 7, 1996 notified the New Jersey Tax Court that annual real estate taxes at Park Court Apartments, 391-7 Park St., Hackensack, N. J. Block 418, Lots 22 and 23, was $24,262.30. The contiguous vacant lot bears annual taxes of $3,816.43, with 390 Park Street, Hackensack paying annual taxes of $3,674.10. Fuel oil at Park Court Apartments cost $7,690.47 in calendar year 1995. Payments to the Hackensack Water Co. (now known as United Water New Jersey) amount to 9,750.00 for calendar year 1995.

6. On March 7, 1996, petitioner was required to distribute Notices to Cease to the tenants of Park Court Apartment requiring that they cease storing their fifty or more bicycles in the court yard attached to railings, and that they cease tampering with fire alarms and plumbing. These notices came as a result of advisements by state and municipal officials that violations existed at the property of fire codes and other

regulations as a result of lease violations by the tenancy.

7. The decision reached by the U. S. Court of Appeals Third Circuit in the within case is premised upon lack of notice to Judge Ackerman of the cause within. In fact, notice to Judge Ackerman was well documented in the two volume tax appeal delivered to him (carbon copies to defendants) on August 2, 1996 via Cert. No. Z726-879-016. R.R.R. Due to the foregoing, it is petitioner's contention as follows:

> I express a belief, based upon a reasoned and studied professional judgment, that the panel decision is contrary to decisions of the United States Court of Appeals for the Third Circuit or the Supreme Court of the United States, and that consideration by the full court is necessary to secure and maintain uniformity of decisions in this Court, to wit, the panel's decision is contrary to the decision of this Court or the Supreme Court in the case of Moretti v. Citibank, et al. Case No. 95-7060, dealing with bank robbery

petioner has currently proceeded to the New York Supreme Court where the case is docketed as Index No 2727-96), and with

the intention of Judge Ackerman in the underlying federal district court case that this matter be reached on an expedited basis in the state court system which has not acted for four years. Further, it is petitioner's contention that the zoning issues and tax collection issues are of exceptional importance, in that houses have been burned down recently in the neighborhood near to zoning variance sites (to wit the Palladino case). In that case, a site four years behind in taxes amounting to over $116,000 was granted a variance after the bankruptcy of a former manager at a car dealership due to excessive taxes demanded by the defendant City of Hackensack.

9. The foregoing statements made by me are true...

Dated: March 12, 1996

Signed: (s) SALVATORE MORETTI